

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GETULIO VERZO, REYNALDO VERZO AND ROBERTO VERZO, DEFENDANTS.

G.R. No. L-22517. December 26, 1967

Ponente: CONCEPCION, C. J.

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CONCEPCION, C. J.:

Defendants Getulio, Reynaldo and Roberto, all surnamed Verzo, having been convicted by the Court of First Instance of Camarines Norte of the crime of murder, with which they are charged, and each sentenced to the extreme penalty, the case is now before us for review pursuant to Section 9 of Rule 122 of the Revised Rules of Court.

The version of the prosecution is this: While heading for the town of Labo, Camarines Norte, on July 6, 1962, at about 6:30 p.m., riding a bicycle, to buy medicines, Filemon Casis noticed that defendant Reynaldo Verzo was seemingly trailing him. Sensing, because of this and other circumstances hereinafter adverted to, that Reynaldo and other members of his family wanted to waylay him, Filemon went to the municipal building, after purchasing the aforementioned medicines, and asked policeman Lope Jariel to escort him (Filemon) on his way home. Jariel agreed to do so and followed him about 15 meters behind. Yet, as Filemon passed in front of the house of defendant Getulio Verzo - father of Reynaldo - about 100 meters from the municipal building, Getulio threw at Filemon a stone, which hit his bicycle, thereby causing him to fall therefrom. As Filemon shouted at Getulio, asking why he (Getulio) had stoned him (Filemon), former patrolman Benjamin Camino - then inside a bar across the street from the house of the Verzos - overheard him (Filemon). Camino stepped out of the bar, asked Filemon what had happened and advised him to report to the authorities in the municipal building. When the two (2) began to proceed thereto, they noticed that Jariel had approached Getulio and inquired why he had stoned Filemon. Getulio replied that his son had been struck by Filemon's son, Carlito; but, Jariel bade Getulio not to take the law into his hands. At this juncture, Camino approached them and, addressing Getulio, remarked: "What more do you want? You already threw a stone." Instead of answering, Getulio entered his house, and came back immediately thereafter, with his sons, Reynaldo and Roberto, each holding a bolo. Thereupon, the three (3) (Getulio, Reynaldo and Roberto) attacked Camino, with their bolos, but, soon, Camino was able to run away, severely wounded. Forthwith, the Verzos turned their fury at Filemon, whom they hacked and stabbed, until Filemon fell down unconscious.

Camino - who sustained several incised wounds,[1] one of which, inflicted from behind, affected the liver - died less than an hour and a half later, in consequence of the resulting hemorrhage and shock. Filemon, in turn, sustained twelve (12) wounds, including the loss of three (3) fingers of the right hand, which were cut off.

For the death of Benjamin Camino, the Verzos were charged with murder in Criminal Case No. 1905 of the Court of First Instance of Camarines Norte, and, for the injuries inflicted upon Filemon Casis, they were accused, in Criminal Case No. 1909 of the same Court, of frustrated murder.

The defense would have the Court believe that, in the evening of July 6, Camino entered the store in the house of the Verzos, in a drunken condition, accompanied by Manuel Cambronero and Filemon, Carlito and David Casis; that, upon entering said store, Camino boxed Reynaldo Verzo, who fell down; that, as Reynaldo rose to his feet, he went to the barber shop, in the adjoining compartment; that thereupon Camino stabbed Roberto Verzo, with an ice pick, three times; that the first thrust hit Roberto on the arm and the second on the back; that, when Camino made the third thrust, Roberto managed to hold his (Camino's) arm; that, at this juncture, Carlito Casis came and tried to stab Roberto; that the latter, however, succeeded in using the body of Camino as a shield, and Carlito's thrust landed on Camino's back; that, as Getulio Verzo passed by the barber shop, in order to call a police-man, Filemon Casis and Manuel Cambronero hit him with pieces of wood, on the head and the shoulder, thereby rendering him unconscious; that Filemon Casis, then, tried to attack Getulio with a bolo, whereupon Reynaldo Verzo grappled for its possession with Filemon; that, in the course of this struggle, Filemon's bolo wounded his own hand; and that, as Filemon would not yield his weapon, Reynaldo pushed him into a ditch nearby, where there were broken bottles.

After a joint trial, the lower Court accepted the version of the prosecution and found the witnesses for the defenses unworthy of credence. It, accordingly, rendered judgment finding the defendants guilty as charged in both cases and sentencing each of them, in Criminal Case No. 1905, to the extreme penalty and to indemnify the heirs of Benjamin Camino in the sum of P3,000.00, as well as to pay one-third of the costs; and, in Criminal Case No. 1909, to an "indeterminate penalty ranging from ten (10) years to seventeen (17) years and four (4) months," to indemnify Filemon Casis in the sum of P5,000.00, and to pay one-third of the costs. None of the defendants having appealed from this decision, the same, insofar only as Criminal Case No. 1905 is concerned, is before us for review, pursuant to Section 9 of Rule 122, owing to the penalty therein imposed upon the defendants.

Their counsel de officio maintains that the lower court erred

- "1. x x x in finding that the fatal wound which caused the death of Benjamin Camino was criminally inflicted by the accused.
- "2. x x x in convicting all the three accused in the absence of proof of conspiracy and of who among them inflicted the fatal wound.
- "3. x x x in appreciating the presence of treachery and abuse of superior strength.
- "4. x x x in failing to consider in favor of the accused the mitigating circumstances shown by the evidence.
- "5. x x x in finding the accused guilty and imposing on them the death penalty."

Under the first assignment of error, counsel asserts the sufficiency of the evidence for the prosecution, by impugning the veracity of its witnesses, because of alleged inconsistencies and improbabilities in their testimonies, and by pointing out defendants' alleged lack of motive to kill Camino.

Upon examination of the records we are satisfied that His Honor, the trial Judge, has not erred in accepting the version of the prosecution and rejecting that of the defense. Indeed, the testimonies of Lope Jariel and Filemon Casis were substantially corroborated by those of Emmanuel Cambronero and Nestor Samson. Cambronero was admittedly in the bar in front of the house of the Verzos, and had stepped out of said bar, together with Camino, shortly before the occurrence. Jariel is a peace officer, who had not taken sides. Nestor Samson lived near the scene of the occurrence and had witnessed part thereof. The testimony of these witnesses for the prosecution, which is plain, simple and straight forward, was, moreover, corroborated by the number, the nature and the location of the injuries sustained by Camino and Filemon. One of the wounds of Camino was on his back. The alleged inconsistencies in said testimonies refer to minor details on which persons witnessing the same

occurrence are likely to disagree, in the ordinary course of events.

The failure of Jariel to prevent the untoward events that happened in his presence should not affect the credibility of his testimony, for he is young and he had been in the police force barely 3 months prior to the occurrence. He fired warning shots during the same, and had tried to dissuade the Verzos, by word of mouth, from taking the law into their hands; but, to no avail. Apart from attesting to an obvious fact - that he is not a seasoned peace officer - his performance is characteristic of the typical simple and unsophisticated policemen of rural areas in the Philippines. Needless to say, the fact that Camino had been his colleague in the police force and that Filemon is the offended party in the case for frustrated murder does not suffice to discredit their respective testimonies, in the light of the surrounding circumstances.

As regards the alleged lack of motive of the defendants to attack Camino, it should be noted that proof of motive is not indispensable when the record clearly shows, as it does in the case at bar, that the death of the offended party is due to injuries inflicted by the defendants. At any rate, there is ample evidence that bad blood existed between the Verzos, on the one hand, and the Casises, on the other, resulting from several incidents between the children of Getulio Verzo and those of Filemon Casis, and that, earlier in the afternoon of the occurrence, Benjamin Camino had escorted Filemon's son, David Casis, who was reluctant to pass alone near the house of the Verzos. Evidently, the latter felt that Camino had identified himself with the Casises.

Upon the other hand, defendants' version of the occurrence is too artificial to merit credence. Although they claimed to have been wounded during the occurrence, their alleged injuries were not shown to any physician until several days after the filing of the complaint against them, on July 7, 1963. The medical examination of Getulio Verzo took place on July 11, and that of Roberto and Reynaldo Verzo on July 17. Again, the injuries of Roberto Verzo consisted of three (3) abrasions and one superficial wound. Those of Reynaldo Verzo were two (2) abrasions, one (1) lacerated wound on the left forearm and an incised wound in the index finger of the right hand. Getulio Verzo had an abrasion, two (2) contusions, one (1) lacerated wound and a small incised wound on the left parietal region, and an incised "avulsion" on the left forefinger. These were superficial injuries. Some of them might have been caused by a fall. Others could have been self-inflicted. In any event, considering that His Honor, the trial Judge had the decided advantage of observing the behavior of the witnesses while giving their testimony, and taking into account the other circumstances obtaining in the case, it is clear to us that the findings of fact made in the decision appealed from should not be disturbed.

With respect to the second assignment of error the facts proven leave no room for doubt that defendants herein were united in their purpose and in carrying out the same into execution. Indeed, no other conclusion may be drawn from the circumstance that they emerged from their house at the same time, each brandishing a bolo; that they immediately attacked Benjamin Camino and chased him as he tried to run away; that they did not desist, despite the shots of warning fired by Patrolman Jariel and his words of advice; that when, after sustaining six (6) wounds, Benjamin Camino managed to place himself beyond their reach, the defendants proceeded to attack Filemon Casts; and that Reynaldo Verzo embraced or held Filemon Casts from behind and then said "Go ahead, father stab him," which Getulio Verzo did.

As regards the third assignment of error, we hold that, although the defendants may be given the benefit of doubt on whether or not there had been treachery, it is manifest that they had acted with abuse of superior strength, for whereas the three (3) of them were wielding boloes, Benjamin Camino was unarmed and trying to flee. Hence, the crime committed was murder.¹ Although Patrolman Jariel was present at the scene of the crime, it can not be said that the same has been committed in contempt of or with insult to the public authorities, inasmuch that a policeman is merely an agent of a person in authority, not a person in authority.²

Defendants invoke the mitigating circumstances of provocation on the part of the victim, and incomplete self-defense and voluntary surrender on their part, but none of these circumstances has been established.

No modifying circumstance having attended the per-petration of the crime of murder committed by the accused, the penalty therefor should be imposed in its medium period, which is life imprisonment. Moreover, the corresponding civil liability should, in line with settled jurisprudence, be increased from P3,000.00 to P6,000.00.¹

Thus modified as to the penalty and the amount of the civil liability, the decision appealed from should be, as it is hereby, affirmed, in all other respects, with costs against the defendants.

IT IS SO ORDERED.

Reyes, JBL, Dizon, Makalintal, Bengzon, Zaldivar, Sanchez, Ruiz Castro, Angeles, and Fernando, JJ., concur.

[1] "1. Wound, incised, V-shaped, 1" x 1" long at the level of the 10th interspace, midscapular line, right, involving the diaphragm and liver.

2. Wound, incised, 1-1/2" long, skin-deep, elbow, external aspect, right.

3. Wound, incised, 1/2" long, skin-deep, elbow, external aspect, 1/2" above wound, No. 2, right.

4. Wound, incised, 1-1/2" long, skin-deep, junction of up-per arm and middle thirds, arm, right.

5. Wound, incised, 5" long, muscle-deep, thigh, middle third, lateral aspect.

6. Wound, incised, 1/2" long, subcutaneous-deep, level of 8th rib, 1" behind posterior axillary line, left."

1 U.S. v. Tampacan, 19 Phil., 185; U.S. v. Lasada, 21 Phil., 287; U.S. v. Tandoc, 40 Phil., 954; People v. Caroz, 68 Phil., 521; People v. Develos, L-18866, January 31, 1966; People v. Acusar, 82 Phil., 490; People v. Zabala, 86 Phil., 251; People v. Glore, 87 Phil., 739; People v. Deguia, 88 Phil., 520; People v. Mendoza, 91 Phil., 58; and People v. Villapa, 91 Phil., 189.

2 People v. Siojo, 61 Phil., 307, 317.

1 People v. Jaravata, L-22029, August 15, 1967; Lumiguiz v. People, L-20338, April 27, 1967; People v. Berdida, L-20183, June 30, 1966; People v. Libed, L-20431, June 23, 1965.

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